

|                         |              |
|-------------------------|--------------|
| -----                   | :            |
| IN THE MATTER OF:       | :            |
|                         | :            |
| HML Rose, INC           | :            |
| t/a Lindy's Bon Appetit | : Show Cause |
| 2040 I Street NW        | : Hearing    |
| Retailer CR             | :            |
| License No. 23533       | :            |
| ANC 2A                  | :            |
| Case No. 14-AUD-00061   | :            |
| -----                   | :            |

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairperson Ruthanne Miller, presiding.

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
HERMAN JONES, Member  
JAMES SHORT, Member  
MICHAEL SILVERSTEIN, Member  
HECTOR RODRIGUEZ, Member

## P R O C E E D I N G S

12:00 p.m.

CHAIR MILLER: Next on our calendar is case number 14-AUD-00061, Lindy's Bon Appétit located at 2040 I Street, Northwest, license number 23533 in ANC 2A. This is a show cause hearing. According to my notes it's concerning the failure to file quarterly statements. And would you introduce yourself for the record please?

MR. ECKELS: James Robert Eckels, Jr.

CHAIR MILLER: What's your last name?

MR. ECKELS: Eckels, E-C-K-E-L-S.

CHAIR MILLER: Okay, and are you the owner?

MR. ECKELS: I am.

MEMBER JONES: Can I get that report?

CHAIR MILLER: Let's get that.

MS. GEPHARDT: Yes, hi, I am Chrissy Gephardt, from the office of the Attorney General.

CHAIR MILLER: Okay, this is a show

1 cause hearing. Are there any preliminary  
2 matters?

3 MS. GEPHARDT: Yes, there is a  
4 preliminary matter and that is that the parties  
5 have reached an offer in compromise in this case.  
6 The offer in compromise consists of a \$2,000  
7 fine. This is a sixth secondary tier violation,  
8 and that's the offer.

9 CHAIR MILLER: Okay, and okay.

10 MS. GEPHARDT: Oh, excuse me, and the  
11 offer would be paid within 60 days. If it's not  
12 paid within 60 days the license would be  
13 suspended immediately.

14 CHAIR MILLER: Okay, good. Mr.  
15 Eckels, I'm going to ask you if you agree to this  
16 offer in compromise of \$2,000 to be paid within  
17 60 days and if not paid by the 60th day your  
18 license will be suspended until payment.

19 MR. ECKELS: That's good. I did  
20 request the 90 days if that's possible. I've got  
21 property tax bills due, I've got license bill  
22 due.

1 CHAIR MILLER: Okay, that's between  
2 you and Ms. Gephardt. Do you want to just confer  
3 for a minute?

4 MS. GEPHARDT: As I was saying the 60  
5 days is the best we can do.

6 MR. ECKELS: Okay. Sixty days it is.

7 CHAIR MILLER: Okay. And you  
8 understand that you waive your right to a  
9 hearing?

10 MR. ECKELS: Yes.

11 CHAIR MILLER: And you cannot appeal  
12 the OIC?

13 MR. ECKELS: Correct.

14 CHAIR MILLER: Any questions by board  
15 members? Mr. Alberti?

16 MEMBER ALBERTI: I will hold my  
17 questions until after this matter is settled.

18 CHAIR MILLER: Any other? Alright,  
19 then, I'm going to move approval of the offer in  
20 compromise of \$2,000 to be paid within 60 days.  
21 If not paid within 60 days then the license will  
22 be suspended until the fee is paid. Do I have a

1 second?

2 MEMBER SILVERSTEIN: Second.

3 MEMBER ALBERTI: Madam Chair, I'd like  
4 to adjourn and consult briefly with our general  
5 counsel on this matter.

6 CHAIR MILLER: Okay, there's a motion  
7 that's been seconded, but --

8 MR. ALBERTI: But we haven't voted.

9 CHAIR MILLER: Nope, we haven't.  
10 Okay. We'll have to, you're making a motion to  
11 adjourn and to discuss this in closed session.  
12 Is there a second?

13 MEMBER BROOKS: Second.

14 CHAIR MILLER: Okay, and I'll take a  
15 roll call on the motion now that it's been  
16 seconded. No, I haven't really read the  
17 instructions. This is just a little different.  
18 Alright, the chairperson of the Alcoholic  
19 Beverage Control Board for the District of  
20 Columbia in accordance with section 405 of the  
21 Open Meetings Amendment Act. Mr. Alberti has  
22 moved that the ABC board hold a closed meeting

1 for the purpose of considering this offer in  
2 compromise in closed session and seeking legal  
3 advice from counsel on case number 14-AUD-00061,  
4 Lindy's Bon Appétit, and deliberating upon it for  
5 the reasons cited in Section 405(b) 13 of the  
6 Open Meetings Amendment Act and it was seconded  
7 by whom? Mr. Brooks, I think?

8 MEMBER BROOKS: Yes.

9 CHAIR MILLER: Mr. Brooks, I'll now  
10 take a roll call. Mr. Brooks?

11 MEMBER BROOKS: I agree.

12 CHAIR MILLER: Mr. Alberti?

13 MEMBER ALBERTI: I agree.

14 CHAIR MILLER: Ms. Miller disagrees.  
15 Mr. Silverstein?

16 MEMBER SILVERSTEIN: I agree.

17 CHAIR MILLER: Mr. Silverstein agrees.  
18 Mr. Short?

19 MEMBER SHORT: I agree.

20 CHAIR MILLER: Okay, Mr. Jones?

21 MEMBER JONES: I agree.

22 CHAIR MILLER: Okay, the vote is 5 to

1 1. Okay, to adjourn for closed session. Okay,  
2 so we will be back shortly. We'll go consider  
3 something related to this offer in compromise and  
4 return shortly.

5 (Whereupon, the above-entitled matter  
6 went off the record at 12:06 p.m. and resumed at  
7 12:24 p.m.)

8 CHAIR MILLER: Okay, we're back on the  
9 record, and where we left off was I had made a  
10 motion to approve the offer in compromise for  
11 \$2,000 to be paid within 60 days. If not paid  
12 within 60 days then the license would be  
13 suspended until payment and that was seconded,  
14 though I forgot who that second was by, Mr.  
15 Silverstein? Okay, so I'm going to call a vote  
16 on that motion and then we'll after that, if  
17 necessary. All those in favor say aye. Aye.  
18 All those opposed?

19 MEMBERS: Oppose.

20 CHAIR MILLER: All those abstaining?  
21 Okay, then the vote is 1-6-0. The motion fails.  
22 I will just say that the board looked at the

1       investigative history of the establishment when  
2       it was in the executive room and I will refer to  
3       others who may want to make a different motion  
4       from the one I made that just failed.

5               MR. ALBERTI: I don't believe there's,  
6       what other motion? I'm not sure there, what  
7       other motion would you be looking for in this  
8       case?

9               CHAIR MILLER: A deny.

10              MR. ALBERTI: We, right, now, so the  
11       OIC hasn't been accepted, so then the next step  
12       is to move forward to a hearing.

13              CHAIR MILLER: Okay, we usually do an  
14       affirmative vote on the motions. The result is  
15       the same.

16              MR. ALBERTI: Yes.

17              CHAIR MILLER: So no one wishes to  
18       make a motion or to address the reason for  
19       denial, voting against the offer in compromise, I  
20       gather? Okay. I thought it was a fair one.  
21       That's my position, administrative counsel.

22              MEMBER SILVERSTEIN: The question is



1 when do we go to hearing on this?

2 CHAIR MILLER: Alright, well, this  
3 case was scheduled for hearing today, but the  
4 board has an obligation at 12:30, so cannot hold  
5 the hearing today. So I would suggest that you  
6 confer with Ms. Jenkins and find another date for  
7 the hearing. I apologize for that, but we have  
8 an obligation that we can't change. Thank you  
9 very much. We'll see you next time.

10 So that concludes our morning  
11 calendar, I believe. The board will adjourn and  
12 come back at 1:30 for the public hearing on the  
13 pub crawl round table. Thank you.

14 (Whereupon, case 14-AUD-00061  
15 concluded at 12:27 p.m.)  
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|---|---|---|--|
| <hr/> <b>A</b> <hr/> <b>\$2,000</b> 3:6,16 4:20 7:11<br><b>ABC</b> 5:22<br><b>above-entitled</b> 7:5<br><b>abstaining</b> 7:20<br><b>accepted</b> 8:11<br><b>Act</b> 5:21 6:6<br><b>address</b> 8:18<br><b>adjourn</b> 5:4,11 7:1 9:11<br><b>administrative</b> 8:21<br><b>advice</b> 6:3<br><b>affirmative</b> 8:14<br><b>agree</b> 3:15 6:11,13,16 6:19,21<br><b>agrees</b> 6:17<br><b>Alberti</b> 1:15 4:15,16 5:3 5:8,21 6:12,13 8:5,10 8:16<br><b>Alcoholic</b> 1:2,11,11 5:18<br><b>Alright</b> 4:18 5:18 9:2<br><b>Amendment</b> 5:21 6:6<br><b>ANC</b> 1:8 2:6<br><b>apologize</b> 9:7<br><b>appeal</b> 4:11<br><b>Appetit</b> 1:6<br><b>Appétit</b> 2:4 6:4<br><b>approval</b> 4:19<br><b>approve</b> 7:10<br><b>Attorney</b> 2:20<br><b>aye</b> 7:17,17 | 6:17,20,22 7:8,20 8:9 8:13,17 9:2<br><b>chairperson</b> 1:12,15 5:18<br><b>change</b> 9:8<br><b>Chrissy</b> 2:19<br><b>cited</b> 6:5<br><b>closed</b> 5:11,22 6:2 7:1<br><b>Columbia</b> 1:1 5:20<br><b>come</b> 9:12<br><b>compromise</b> 3:5,6,16 4:20 6:2 7:3,10 8:19<br><b>concerning</b> 2:7<br><b>concluded</b> 9:15<br><b>concludes</b> 9:10<br><b>confer</b> 4:2 9:6<br><b>consider</b> 7:2<br><b>considering</b> 6:1<br><b>consists</b> 3:6<br><b>consult</b> 5:4<br><b>Control</b> 1:2,11,11 5:19<br><b>Correct</b> 4:13<br><b>counsel</b> 5:5 6:3 8:21<br><b>CR</b> 1:7<br><b>crawl</b> 9:13 | <b>fee</b> 4:22<br><b>file</b> 2:8<br><b>find</b> 9:6<br><b>fine</b> 3:7<br><b>forgot</b> 7:14<br><b>forward</b> 8:12 <hr/> <b>G</b> <hr/> <b>G</b> 2:1<br><b>gather</b> 8:20<br><b>general</b> 2:21 5:4<br><b>Gephardt</b> 2:19,20 3:3 3:10 4:2,4<br><b>go</b> 7:2 9:1<br><b>going</b> 3:15 4:19 7:15<br><b>good</b> 3:14,19 <hr/> <b>H</b> <hr/> <b>hearing</b> 1:6,11 2:7 3:1 4:9 8:12 9:1,3,5,7,12<br><b>HECTOR</b> 1:18<br><b>HERMAN</b> 1:16<br><b>hi</b> 2:19<br><b>history</b> 8:1<br><b>HML</b> 1:5<br><b>hold</b> 4:16 5:22 9:4 | <b>matter</b> 1:4 3:4 4:17 5:5 7:5<br><b>matters</b> 3:2<br><b>meeting</b> 1:3 5:22<br><b>Meetings</b> 5:21 6:6<br><b>Member</b> 1:15,16,16,17 1:17,18 2:17 4:16 5:2 5:3,13 6:8,11,13,16 6:19,21 8:22<br><b>members</b> 4:15 7:19<br><b>met</b> 1:11<br><b>MICHAEL</b> 1:17<br><b>Miller</b> 1:12,15 2:3,12,14 2:18,22 3:9,14 4:1,7 4:11,14,18 5:6,9,14 6:9,12,14,14,17,20,22 7:8,20 8:9,13,17 9:2<br><b>minute</b> 4:3<br><b>morning</b> 9:10<br><b>motion</b> 5:6,10,15 7:10 7:16,21 8:3,6,7,18<br><b>motions</b> 8:14<br><b>move</b> 4:19 8:12<br><b>moved</b> 5:22 |
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